

Remarks

This Request for Reconsideration is in response to the Office Action dated **January 15, 2009**. In the Office Action, claims 1, 6, 8, 15, 22, 24, and 32 were rejected under 35 USC 102(b) as being anticipated by Kanesaka (5,810,872) and claims 2, 4, 5, 7, 9-14, 16, 18-21, 23, and 29-31 were rejected under 35 USC 103(a) as being unpatentable Kanesaka (5,810,872).

Applicant notes that the cover page of the Office Action indicates that the drawings filed August 18, 2006 are objected to. The Office Action does not, however, indicate why the drawings are objected to. Applicant requests clarification.

New claim 33-35 has been added. Support for the claim may be found at least in Fig. 5 of the application as filed. No new matter was added. Withdrawn claims 17 and 28 were cancelled without prejudice.

The following comments are presented in the same order, with section headlines, as the Office Action.

35 USC 102

In the Office Action, claims 1, 6, 8, 15, 22, 24, and 32 were rejected under 35 USC 102(b) as being anticipated by Kanesaka (5,810,872). Applicants have cancelled claim 15.

The Office Action asserted, in part, that Kanesaka shows “at least one connecting member 18 or 29 *which can be adapted to do anything*; a direct connection, where 19 or 29 are directly connected to the stent area struts, and a separate bridging member actual length of element 18 or 29” (emphasis added).

Applicants submit that a *prima facie* case of anticipation has not been made in the Office Action¹.

Independent claims 1, 6, 8 and 32 include the following recitation:

- (a) a direct connection between a linear portion of the first strut that lies side by side with a linear portion of the second strut, or

¹ “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” (MPEP 2131 quoting Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

(b) a separate bridging member having a first portion welded to the first strut and a second portion welded to the second strut.

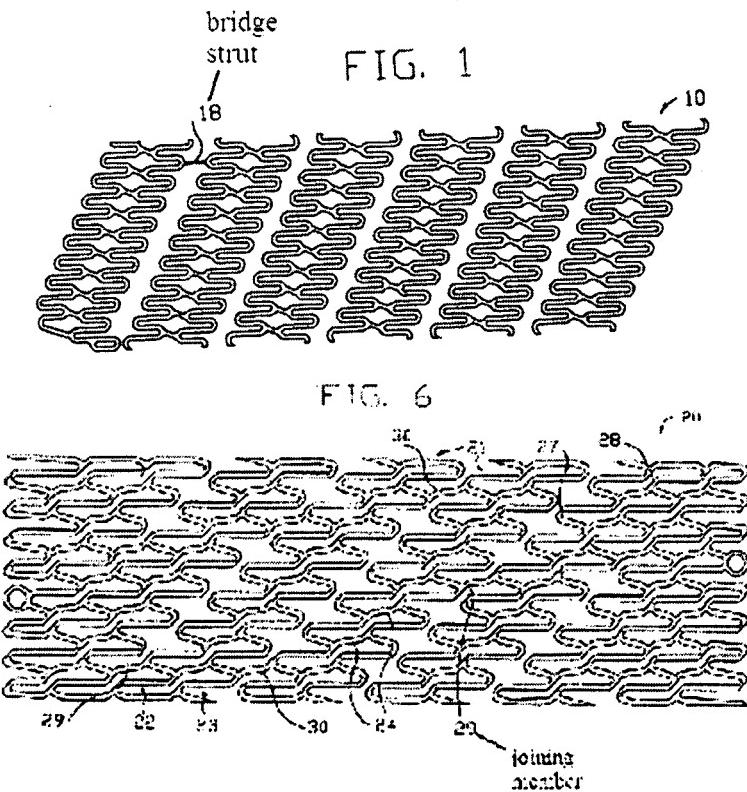
This recitation is not disclosed by Kanesaka.

Applicants note that forming a weld or welding is not mentioned in Kanesaka.

Therefore, Applicants submit that Kanesaka does not teach “a separate bridging member having a first portion welded to the first strut and a second portion welded to the second strut,” as recited in independent claim 1.

The Office Action asserted that Kanesaka teaches “at least one connecting member 18 or 29 which can be adapted to do anything; a direct connection, where 19 or 29 are directly connected to the stent area struts.” Applicants disagree and submit that Figs. 1 and 6 of Kanesaka do not teach “a direct connection between a linear portion of the first strut that lies side by side with a linear portion of the second strut.”

For reference, an annotated copy of Figs. 1 and 6 of Kanesaka is provided:



As shown above in Figs. 1 and 6, Applicants submit that the bridge strut 18 and

the joining member 29 do not comprise “a direct connection between a linear portion of the first strut that lies side by side with a linear portion of the second strut.” The struts which are connected by bridge strut 18 or joining member 29 do not include portions which are situated side-by-side.

For at least these reasons, Applicants submit that Fig. 1 does not anticipate independent claims 1, 6, 8 and 32 because it does not teach each and every element as required by MPEP 2131. Applicants request withdrawal of the rejection and submit that claims 1, 2, 4

Independent Claim 22

The Office Action asserted, regarding claim 26, that “[h]oops are seen in fig. 6 [of Kanesaka] as are end hoops, which have elements that are perpendicular to the circumference and parallel to the axis of the stent.” Beyond the assertion, however, the Office Action does not, point to any specific structure. Specifically, the Office Action has not identified the end hoops.

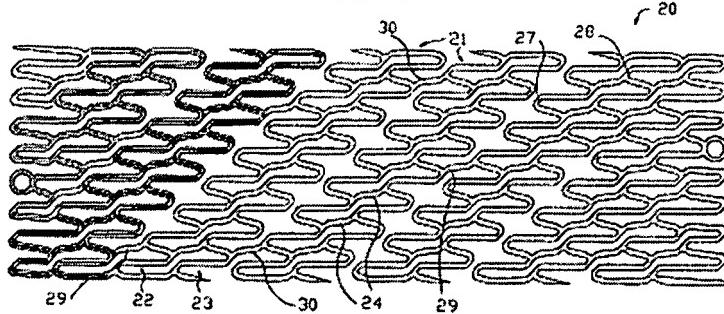
Nevertheless, to further prosecution, Applicants have amended claim 22. Support for the amendment can be found at least on pp. 9-11 and Fig. 5 of the application as filed. No new matter was added.

Independent Claim 22 as amended recites in part:

each end hoop extending all the way around the circumference of the stent, each end hoop forming defined by a series of substantially straight struts connected by apex sections alternately pointing in opposite axial directions wherein apex sections that point outwardly from said stent lie in a common plane perpendicular to the axis of said stent.

Applicants submit that Kanesaka does not teach an end hoop as recited in independent claim 22. For reference, Applicants have provided an annotated copy of Fig. 6 of Kanesaka in which a portion of one strip 21 and a portion of the second strip 21 have been shaded light and dark grey.

FIG. 6



As shown above, Fig. 6 of Kanesaka does not teach an end hoop engaged to a circumferential hoop where the end hoop extends all the way around the circumference of the stent. For at least these reasons, Applicants submit that Kanesaka does not anticipate independent claim 22. Applicants request withdrawal of the rejection and submit that independent claim 22 is in condition for allowance.

Independent Claim 24

Independent claim 24 recites in part:

a plurality of connecting members uniformly distributed along the stent according to a helical spacing of once approximately every 430 degrees

The Office Action has not pointed out any teaching of 430 degrees in Kanesaka and, thus, has not made a *prima facie* case of anticipation.

Moreover, Applicants submit that Kanesaka does not teach “a plurality of connecting members uniformly distributed along the stent according to a helical spacing of once approximately every 430 degrees,” as recited in claim 24.

For reference, Applicants have provided a copy of Fig. 1 of Kanesaka:

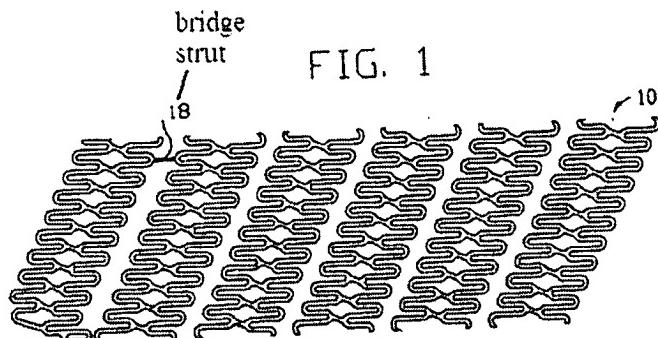
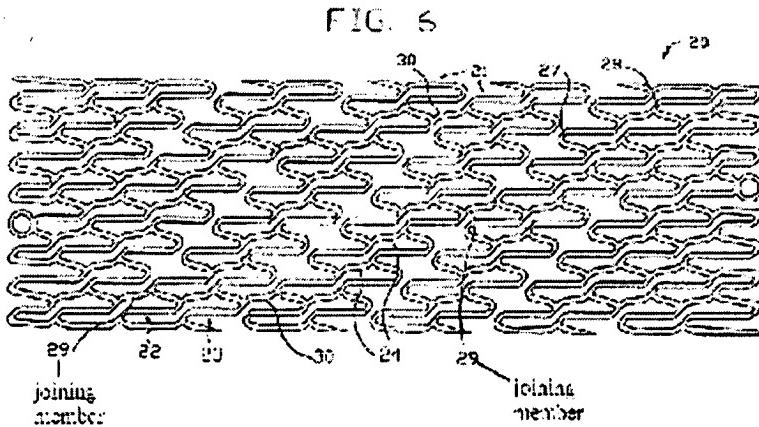


FIG. 1

In reference to bridging strut 18 of the stent in Fig. 1, Kanesaka states:

The bridge strut 18 should be formed at both ends in the circular shape to keep the shape at the ends, but one or more bridge strut 18 may be formed in the middle portion thereof. No bridge strut 18 may be formed in the middle section (col. 4, lines 2-6).

Thus, Kanesaka does not teach distributing the bridge struts 18 as recited in independent claim 24. Similarly, the joining members 29 shown in Fig. 6 of Kanesaka do not appear to be distributed as recited in independent claim 24. For reference, Applicants have shaded some of the joining members 29 in Fig. 6 a light grey:



For at least these reasons, Applicants submit that Kanesaka does not anticipate independent claim 24. Applicants request withdrawal of the rejection and submit that independent claim 24 is in condition for allowance.

35 USC 103

In the Office Action, claims 2, 4, 5, 7, 9-14, 16, 18-21, 23, and 29-31 were rejected under 35 USC 103(a) as being unpatentable Kanesaka (5,810,872).

Claims 2, 4, 29-31, Dependent from Independent Claim 1

As discussed above, Kanesaka does not teach or suggest each and every element of independent claim 1, from which claims 2, 4, and 29-31 depend. Nor has the Office Action pointed to any suggestion in Kanesaka which would render independent claim 1 obvious, let alone the claims dependent therefrom.

For at least this reason, Kanesaka does not render dependent claims 2, 4 and 29-31 obvious. Applicants request withdrawal of the rejection and submit that claims 2, 4, and 29-31 are in condition for allowance.

Independent Claim 5

Independent claim 5 recites in part:

wherein the connecting member comprises one of:

(a) a direct connection between a linear portion of the first strut that lies side by side with a linear portion of the second strut, or

(b) a separate bridging member having a first portion welded to the first strut and a second portion welded to the second strut

said stent further comprising a plurality of connecting members uniformly distributed along the stent according to a helical spacing of once approximately every 450 degrees.

Applicants submit that Kanesaka does not teach or suggest a connecting member as recited in independent claim 5. The specific reasons are provided above in the discussion regarding the rejection of independent claim 1. Applicants further submit that Kanesaka does not teach or suggest connecting members uniformly distributed along the stent according to a helical spacing of once approximately every 450 degrees as recited in claim 5 (See discussion above regarding the rejection of claim 24).

For at least these reasons, Applicants submit that Kanesaka does not render claim

5 obvious. Applicants request withdrawal of the rejection and submit that independent claim 5 is in condition for allowance.

Claim 7, Dependent from Independent Claim 6

As discussed above, Kanesaka does not teach or suggest each and every element of independent claim 6, from which claim 7 depends. For at least this reason, Kanesaka does not render dependent claim 7 obvious. Applicants request withdrawal of the rejection and submit that claim 7 is in condition for allowance.

Claims 9-13, Dependent from Independent Claim 8

As discussed above, Kanesaka does not teach or suggest each and every element of independent claim 8, from which claims 9-13 depend. For at least this reason, Kanesaka does not render dependent claims 9-13 obvious. Applicants request withdrawal of the rejection and submit that claims 9-13 are in condition for allowance.

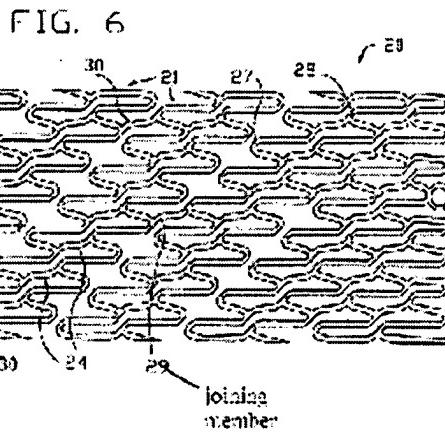
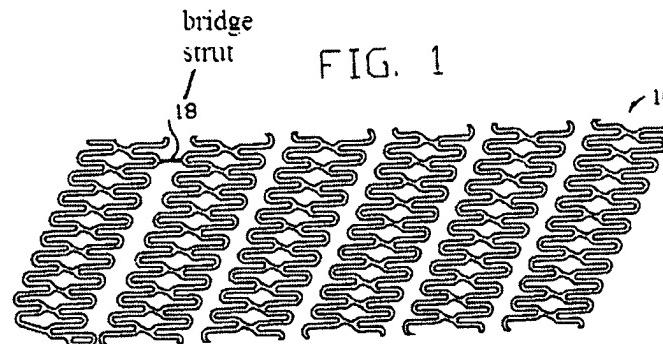
Independent Claim 14 and Dependent Claim 16

To further prosecution, Applicants have amended claims 14 and 16 and cancelled claim 15. Support for the amendments can be found at least on pp. 9-11 and Fig. 5 of the application as filed.

Independent claim 14 as amended recites in part:

An intraluminal stent comprising a plurality of circumferential hoops disposed in a helical succession along an axis of the stent ... adjacent circumferential hoops being engaged by at least one connector, a first end of the at least one connector being parallel to and extending from a substantially straight strut of a first circumferential hoop and a second end of the at least one connector being parallel to and extending from a substantially straight strut of a second circumferential hoop

Applicants submit that Kanesaka does not teach or suggest a connector as recited in independent claim 14. For reference annotated copies of Figs. 1 and 6 are provided below:



Therefore Kanesaka does not teach each and every element of claim 14. For at least this reason, Kanesaka does not render claim 14 obvious. Applicants request withdrawal of the rejection and submit that independent claim 14 is in condition for allowance.

Dependent claim 16 recites in part "wherein said connecting members are parallel to and extend from said longer struts." Applicants disagree that the bridging struts 18 and the joining members 29 of Figs. 1 and 6 of Kanesaka, provided above, "are parallel to and extend from said longer struts" as recited in dependent claim 16.

For at least this reason, Applicants submit that dependent claim 16 is in condition for allowance.

Claim 23, Dependent from Independent Claim 22

As discussed above, Kanesaka does not teach or suggest each and every element of independent claim 22, from which claim 23 depends. For at least this reason, Kanesaka does not render dependent claim 23 obvious. Applicants request withdrawal of the rejection and

submit that claim 23 is in condition for allowance.

Conclusion

Based on at least the above, Applicants respectfully submit that this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1, 2, 4-14, 16, 18-24, and 29-35 is requested.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,
VIDAS, ARRETT & STEINKRAUS

Date: May 13, 2009

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